

# FULBRIGHT & JAWORSKI L.L.P.

A REGISTERED LIMITED LIABILITY PARTNERSHIP  
600 CONGRESS AVENUE, SUITE 2400  
AUSTIN, TEXAS 78701

TELEPHONE: 512/474-7577  
FACSIMILE: 512/474-7577

STEVEN L. HIGHLANDER  
PARTNER

INTERNET ADDRESS:  
SHIGHLANDER@FULBRIGHT.COM

DIRECT DIAL: 512/418-3184

HOUSTON  
WASHINGTON, D.C.  
AUSTIN  
SAN ANTONIO  
DALLAS  
NEW YORK  
LOS ANGELES  
MINNEAPOLIS  
LONDON  
HONG KONG

#3

August 23, 2000

FILE: MYOG:04USD1

CERTIFICATE OF MAILING 37 C.F.R. 1.8	
I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Box Missing Parts, Assistant Commissioner for Patents, Washington, DC 20231, on the date below.	
August 23, 2000	
Date	Steven L. Highlander

## BOX MISSING PARTS

Assistant Commissioner for Patents  
Washington, DC 20231

RE: SN 09/558,472 "DIAGNOSIS AND TREATMENT OF MYOCARDIAL FAILURE" –  
Michael R. Bristow et al.

Sir:

Please find enclosed:

- (1) A Response to Notice to File Missing Parts of Nonprovisional Application filed under 37 C.F.R. 1.53(b) mailed July 12, 2000;
- (2) Two copies of the Inventors' Declarations executed by Michael R. Bristow, Leslie A. Leinwand, Wayne Minobe, and Koichi Nakao;
- (3) A copy of our check stub in the amount of \$345.00 for payment of filing fees;
- (4) Copy of Notice to File Missing Parts of Nonprovisional Application filed under 37 C.F.R. 1.53(b)-Filing Date Granted;
- (5) A Copy of the Request for Filing Divisional Application; and
- (6) A return postcard to acknowledge receipt of these materials. Please date stamp and mail this postcard.

Assistant Commissioner for Patents

August 23, 2000

Page 2

If the check is inadvertently omitted, or the amount is insufficient, or should any additional fees under 37 C.F.R. §§ 1.16 to 1.21 be required for any reason relating to the enclosed materials, or should an overpayment be included herein, the Assistant Commissioner is authorized to deduct or credit said fees from or to Fulbright & Jaworski Deposit Account No.: 50-1212/08001973/SLH.

Respectfully submitted,



Steven L. Highlander  
Reg. No. 37,642

SLH/cjw

Encl: as noted



CERTIFICATE OF MAILING  
37 C.F.R. 1.8

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Box: Missing Parts, Assistant Commissioner for Patents, Washington, DC 20231, on the date below:

8/23/00  
Date

Steven L. Highlander

#3

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Michael R. Bristow  
Leslie A. Leinwand  
Wayne Minobe  
Koichi Nakao

Group Art Unit: 1614

Examiner: Unknown

Atty. Dkt. No.: MYOG:004USD1/SLH

Serial No.: 09/558,472

Filed: April 25, 2000

For: DIAGNOSIS AND TREATMENT OF  
MYOCARDIAL FAILURE

**RESPONSE TO NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL  
APPLICATION FILED UNDER 37 C.F.R. 1.53(b)**

**BOX MISSING PARTS**

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

In response to the Notice to File Missing Parts of Nonprovisional Application Under 37 C.F.R. § 1.53(b), dated July 12, 2000, there are enclosed herewith:

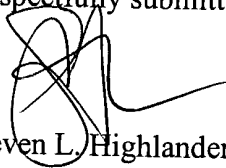
- (a) A copy of our Request for Filing Divisional Application Under 37 § C.F.R. 1.53(b) as originally filed on April 25, 2000 indicating inventorship, as marked in Box 1(a) on the Request;

- (b) Two copies of the Inventors' Declarations as originally filed on April 25, 2000, executed on behalf of Michael R. Bristow, Leslie A. Leinwand, Wayne Minobe; and Koichi Nakao;
- (c) A copy of our check stub in the amount of \$345.00 for payment of filing fees as originally filed, as marked in Box 3 on the Request; and
- (d) A copy of Notice to File Missing Parts of Nonprovisional Application-Filing Date Granted.

Applicants properly submitted all of the above-listed documents with the divisional application as filed. Therefore, Applicants believe no fee is believed to be due in connection with the filing of these documents, however, should any fee under 37 C.F.R. §§ 1.16 to 1.21 be deemed necessary for any reason relating to this document, the Assistant Commissioner is hereby authorized to deduct said fee from Fulbright & Jaworski Deposit Account No. 50-1212/08001973/SLH.

Please date stamp and return the accompanying postcard to evidence receipt of these documents.

Respectfully submitted,

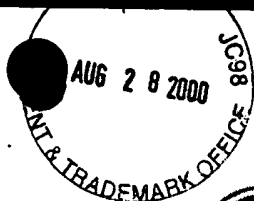


Steven L. Highlander  
Reg. No. 37,642  
Attorney for Applicants

FULBRIGHT & JAWORSKI L.L.P.  
600 Congress Avenue, Suite 2400  
Austin, Texas 78701  
(512) 418-3000

Date:

8/23/00



FORMALITIES LETTER



\*OC00000005234662\*



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office

Address: COMMISSIONER OF PATENT AND TRADEMARKS  
Washington, D.C. 20231

#3

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/558,472	04/25/2000	Michael R. Bristow	MYOG:004DIV1

Steven L Highlander  
Fulbright & Jaworski L L P  
600 Congress Avenue  
Suite 2400  
Austin, TX 78701

Date Mailed: 07/12/2000

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

*Filing Date Granted*

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given TWO MONTHS from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The signature of the following inventor(s) is missing from the oath or declaration:  
*Michael R. Bristow, Leslie A. Leinwand, Wayne Minobe*
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of \$65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.
- The balance due by applicant is \$ 65.

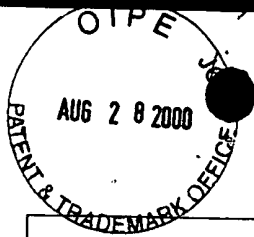
---

*A copy of this notice MUST be returned with the reply.*

Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE



**COPY**

CERTIFICATE OF EXPRESS MAIL	
NUMBER	EL548523892US
DATE OF DEPOSIT	April 25, 2000

**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**EL548523892US**

**Atty. Dkt. No.: MYOG:004DIV1**

**Prior Application Examiner:  
J. Souaya**

**BOX PATENT APPLICATION**  
Assistant Commissioner for Patents  
Washington, D.C. 20231

**Classification Designation:**

**Prior Group Art Unit: 1655**

**REQUEST FOR FILING DIVISIONAL APPLICATION  
UNDER 37 C.F.R. § 1.53(b)**

This is a request for filing a divisional application under Rule 53(b) (37 C.F.R. § 1.53(b)) of co-pending prior application Serial No. 09/016,075 filed January 30, 1998, entitled "DIAGNOSIS AND TREATMENT OF MYOCARDIAL FAILURE," by inventors Michael R. BRISTOW, Leslie A. LEINWAND, Wayne MINOBE, and Koichi NAKAO.

- ☒ 1. Enclosed is a copy of the prior application Serial No. 09/016,075 as originally filed, including specification, claims, drawings, and declaration. The undersigned hereby verifies that the attached papers are a true copy of the prior application as originally filed and identified above, that no amendments (if any) referred to in the declaration filed to complete the prior application introduced new matter therein, and further that this statement was made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both, under Section 1001 of Title 18 of the United States Code, and that such

willful false statement may jeopardize the validity of the application or any patent issuing thereon.

(a) ☒ The inventorship is the same as prior Application Serial No. 09/016,075.

(b) ☐ Deletion of inventor(s). Signed statement attached deleting inventor(s) named in the prior application, see 37 C.F.R. § 1.63(d)(2) and 1.33(b).

(c) ☐ Priority of foreign patent application number , filed in  
is claimed under 35 U.S.C. § 119(a)-(e). The certified copy:

☐ is enclosed.

☐ has been filed in the prior Application Serial No.

☐ 2. The Assistant Commissioner is requested to grant Applicant a filing date in accordance with Rule 1.53, and supply Applicant with a Notice of Missing Parts in due course, in accordance with the provisions of Rule 1.53(f).

☒ 3. Enclosed is a check in the amount of \$345.00 to cover the filing fee as calculated below and the fee for any new claims added in the Preliminary Amendment referred to in Part No. 9 below.

CLAIMS AS FILED IN THE PRIOR APPLICATION  
LESS CLAIMS CANCELED BELOW

FOR	NUMBER FILED	NUMBER EXTRA	RATE	FEE
Basic Fee -----				\$345.00
Total Claims	7 - 20 =	0 X	\$9.00 =	\$0.00
Independent Claims	1 - 3 =	0 X	\$39.00 =	\$0.00
Multiple Dependent Claim(s) -----				\$-0-.00
<b>TOTAL FILING FEES:</b>				<b>\$345.00</b>

- ☒ 4. Applicant is entitled to Small Entity Status for this application.
- ☐ (a) A small entity statement is enclosed.
- ☒ (b) A small entity statement was filed in the prior nonprovisional application and such status is still proper and desired.
- ☐ (c) Small entity status is no longer claimed.
- ☒ 5. If the check is missing or insufficient, the Assistant Commissioner is hereby authorized to charge any fees under 37 C.F.R. §§ 1.16 to 1.21 which may be required for any reason relating to this application, or credit any overpayment to Fulbright & Jaworski Account No.: 50-1212/10014732/01973.
- ☐ 6. Enclosed is a copy of the current Power of Attorney in the prior application.
- ☒ 7. Address all future communications to:

Steven L. Highlander  
FULBRIGHT & JAWORSKI, L.L.P.  
600 Congress Avenue, Suite 2400  
Austin, Texas 78701  
(512) 418-3184

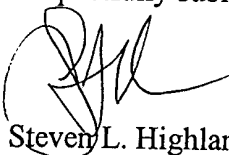


- ☒ 8. The prior application is presently assigned to UNIVERSITY TECHNOLOGY CORPORATION.
- ☐ 9. Enclosed is a preliminary amendment. Any additional fees incurred by this amendment are included in the check at No. 3 above and said fee has been calculated after calculation of claims and after amendment of claims by the preliminary amendment.
- ☒ 10. Cancel in this application claims 1-16 and 24-26 of the prior application before calculating the filing fee. (At least one original independent claim must be retained).
- ☒ 11. Amend the specification by inserting before the first line the sentence: --This is a divisional of co-pending application Serial No. 09/016,075 filed January 30, 1998, which claims priority to U.S. Provisional applications Serial Nos. 60/038,911, filed February 26, 1997, and 60/036,987, filed January 30, 1997. --
- ☐ 12. Enclosed are formal drawings.
- ☐ 13. An Information Disclosure Statement (IDS) is enclosed.
- ☐ (a) PTO-1449.
- ☐ (b) Copies of IDS citations.
- ☒ 14. Transfer the sequence information, including the computer readable form previously submitted in the parent application, Serial No. 09/016,075 filed January 30, 1998, for use in this application. **Under 37 C.F.R. § 1.821(e), Applicant states that the paper copy of the sequence listing in this application is identical to the computer readable copy in parent application Serial No. 09/016,075 filed January 30, 1998. Under 37 C.F.R. § 1.821(f), Applicant also states that the**

information recorded in computer readable form is identical to the written sequence listing.

- ☒ 15. Other: copy of Request for Extension of Time filed in parent application concurrently herewith.
- ☒ 16. Return Receipt Postcard (should be specifically itemized).

Respectfully submitted,



Steven L. Highlander  
Reg. No. 37,642  
Attorney for Applicant

FULBRIGHT & JAWORSKI, L.L.P.  
600 Congress Avenue, Suite 2400  
Austin, Texas 78701  
(512) 418-3184

Date: 4/25/00